

PORTLAND MAIN OFFICE
1000 SW Third Avenue, Suite 600
Portland, Oregon 97204
(503) 727-1000
www.usdoj.gov/usao/or



DEPARTMENT OF JUSTICE
United States Attorney's Office
United States Attorney Billy J. Williams
District of Oregon

EUGENE BRANCH
405 E 8th Avenue, Suite 2400
Eugene, Oregon 97401
(541) 465-6771

Steven T. Mygrant
Assistant U.S. Attorney
steven.mygrant@usdoj.gov
(503) 727-1000

MEDFORD BRANCH
310 West Sixth Street
Medford, Oregon 97501
(541) 776-3564

July 1, 2019

The Honorable Robert E. Jones
United States District Judge
1407 United States Courthouse
1000 SW Third Avenue
Portland, OR 97204-2902

Re: *United States v. Mark L. Dencklau et al*, 3:18-CR-00319-JO
Status Update on DOJ Capital Case Review

Dear Judge Jones,

This letter is submitted to provide a status update on the Capital Case Review process currently in progress in the U.S. Department of Justice Criminal Division.

At the March 5, 2019 status conference in this case, the Court granted the government's motion to designate this Racketeering Conspiracy prosecution as a complex case as to all co-defendants, pursuant to Title 18, United States Code, Section 3161(h)(7)(B)(ii). *See* ECF No. 157. In the same March 5, 2019 status conference in which the Court declared the case complex as to all defendants, the Court also directed the Department of Justice to have a death penalty decision as to the remaining five eligible defendants within sixty (60) days, or May 5, 2019.

As of early May 2019, this case cleared the Capital Review Committee (Justice Manual 9-10.130), and went to the office of the Deputy Attorney General (DAG) for a recommendation to the Attorney General. At the government's request, on May 5, 2019, this Court granted another 60-day extension for the final decision from the Attorney General on this serious and complex issue. That deadline is now set for Friday July 5, 2019.

We have received the Attorney General's final decision directing this prosecution team not to seek the death penalty for any of the death-eligible defendants. Therefore, the government will not be seeking the death penalty against indicted and death-eligible defendants Earl Fisher, Mark Dencklau, Tiler Pribbernow, Ryan Negrinelli, Chad Erickson, or Joseph Folkerts. Co-defendant Kenneth Hause (defendant #4) was not charged with a death-eligible offense.

The government is providing a copy of this letter to the Federal Public Defender's Office because this capital case "no-seek" decision may affect panel appointments and future potential

substitution of counsel decisions. *See United States v. Waggoner*, 339 F.3d 915, 919 (9th Cir. 2003) (upholding district court's denial of defendant's request for continued representation by second lawyer after the government gave notice it would not seek the death penalty because, at that point, defendant has no statutory right to a second court-appointed attorney), citing *United States v. Dufur*, 648 F.2d 512 (9th Cir. 1980); *see also United States v. Steel*, 759 F.2d 706, 710 (9th Cir. 1985); *United States v. Casseus*, 282 F.3d 253, 256 (3d Cir. 2002) ("after the government declared that it would no longer seek the death penalty, the appellants were no longer capital defendants.").

Sincerely,

BILLY J. WILLIAMS
United States Attorney

/s/ Steven T. Mygrant
STEVEN T. MYGRANT
Assistant United States Attorney

cc: Erik Eklund, Lisa Ludwig & Scott Leonard, co-counsel for Mark Dencklau
Ernest Warren & Deborah Burdzik, co-counsel for Earl Fisher
Matt McHenry & Kathleen Correll, co-counsel for Tiler Pribbernow
Todd Bofferding, counsel for Kenneth Hause
Matt Schindler & Dianna Gentry, co-counsel for Ryan Negrinelli
Thomas Coan & Richard Wolf, co-counsel for Chad Erickson
Andrew Kohlmetz & Laurie Bender, co-counsel for Joseph Folkerts
Lisa Hay, Federal Public Defender (FPD)
Jennifer Horvath, CJA Resource Attorney (FPD)